

# Counseling The Creative®

*Kenneth F. Pearce, Attorney at Law*

Practice limited to intellectual property matters in  
Patent, Trademark and Copyright Law

Registered to practice before the  
United States Patent and Trademark Office  
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Although not a matter of United States or International Law, since Mr. Pearce is an Attorney, the Supreme Court of the Commonwealth of Kentucky, as do some of the other highest courts of the fifty States, require him to declare, "THIS IS AN ADVERTISEMENT"

Disclaimer

Information published in the Counseling The Creative® website is not to be relied upon as counsel regarding any aspect of the viewer's potential intellectual property rights or any current intellectual property rights already granted, in whole or in part, by any nation. The information contained herein is based upon the Laws of the United States of America.

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**Worldwide capabilities-----418**

Counseling The Creative® has a worldwide network of affiliated attorneys. Due to its communications network, Counseling The Creative® represents applicants living in Europe, Asia, South America, Africa, the Middle East or Australia as efficiently and easily as those residing in the United States.

**Low overhead-----420**

Because Counseling The Creative® does not have the overhead of intellectual property firms located in larger metropolitan areas, we are able to pass those savings along to those utilizing our services.

**Accurate cost estimates-----422**

**FIG. 3**

Due to his years of experience, in intellectual property matters before the United States Patent and Trademark Office (USPTO), in most cases, Mr. Pearce will be able to closely estimate the actual professional charges to be attributed to each particular matter, prior to performing professional services.

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Due to Treaties enacted by many of the World's governments, creative intellectual property owners often find the privileges and monopolies flowing from their patents, trademarks and copyrights to be global in scope.

In today's far reaching marketplace, only the most resourceful people have any hope of surviving the assault of their cheapest cutthroat competitors. With this in mind, like many of their larger Fortune 500® counterparts, most creative companies determine intellectual property is their most valuable asset. Savvy creative people comprehend the importance of excluding their competitors from competing directly against their product or service. Intellectual property rights are essential in the legal exclusion of competition. In the end, most creative upstarts find their intellectual property assets are the lifeblood which can sustain them against the onslaught of larger and better financed rivals. History is replete with numerous examples of this reality. At the same time, recent reports demonstrate Wall Street investors reward creative entrepreneurs, who are well-endowed with valuable intellectual property holdings.-----506

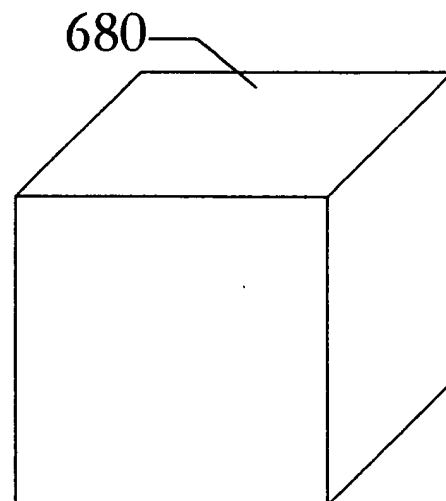
What kind of property is sufficiently creative to be protected by intellectual  
property rights?-----600

The following Counseling The Creative® criterion generates a deductive appraisal of the potential value of owning patents, trademarks and copyrights.

Patent Rights are excellent assets-----620

Let us begin with a simple block shape.

Some would call it a box, others a cube, while still others would label it a block. Since cubes have been around for millennia, many would argue that it impossible to patent a cube. However, in the United States of America, for a **utility patent**, the patentability of the invention is not measured against how long something has existed. Instead, the dual tests of novelty and non-obviousness to those skilled in the art are the standards for patentability. A **utility patent** must also have a function while a **design patent** is limited to its ornamental design. -----622

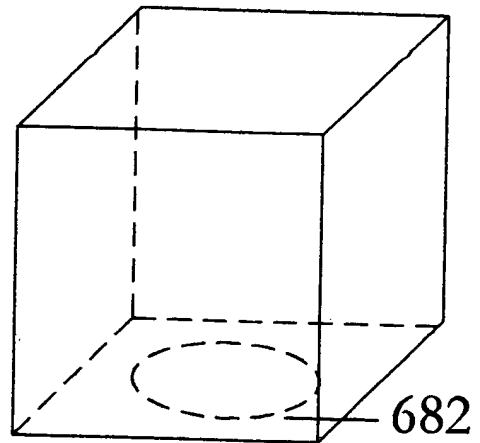


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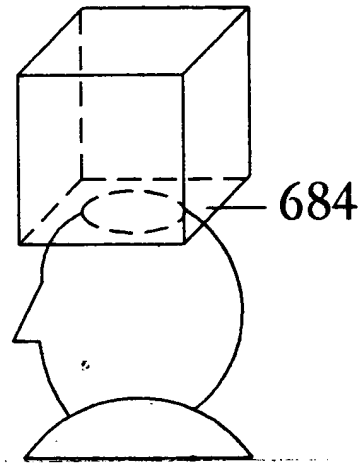
**FIG. 4**

# REPLACEMENT SHEET

Because this cube is the corner stone of our intellectual property assets, we will label it a block. In other words, it is our building block. And whether or not a building block is patentable depends upon what is being built. Thus, if we cut a hole in bottom of our block, we have just invented a new type of hat. -----622



Because US Patent Office records reveal no one else has ever patented a block hat or any similar hat-cap-type structure, then it is possible to obtain a **utility patent** for the block hat.

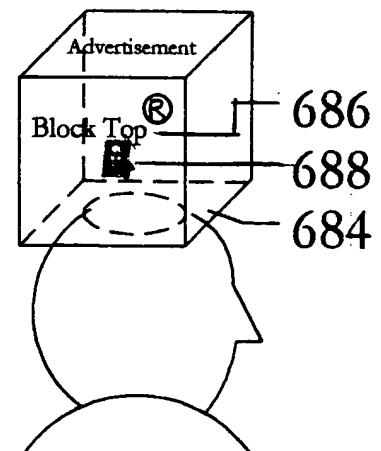
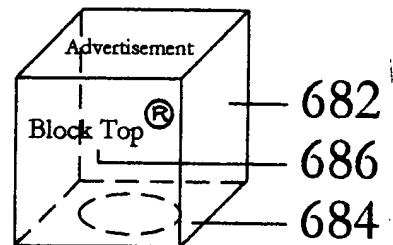


**Trademark Rights**-----630

If we take the patented block hat that functions to protect some heads and attach a Block Top™ label to it, we have created a **trademark**. Since the records of the Trademark Office reveal no other person owns the typed term Block Top for hats, the creative applicant can procure a Federal Registration of Block Top® for hats. Because the Block Top® label is attached to our hats, anyone buying the hats knows he has purchased the genuine, the original and the patented Block Top® hat. In doing this, the creative person makes his mark on commerce.-----632

**Design Patent**-----640

When a design, such as a Mona Lisa, is added to the trademarked and patented Block Top® hat an ornamental design is created. Such a design can be the subject of a **design patent**.-----642



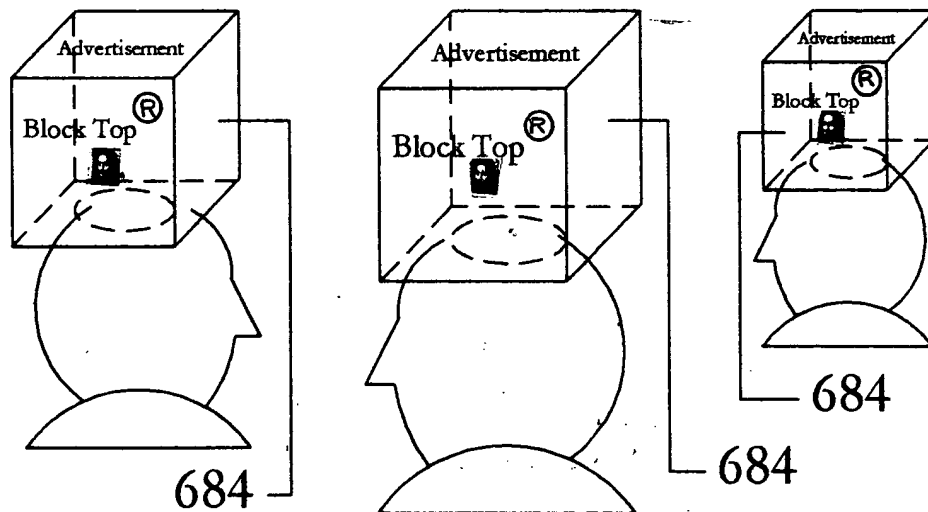
**FIG. 5**

**Copyrights are valuable intellectual property-----650**

By attaching advertising messages to the **design patented, utility patented and trademarked** block hat and filing an application for registration of copyright, we can obtain a **copyright** for the advertising message affixed to the Block Top®.---652

**Methods of doing business are now subject matter for United States utility patents.-----660**

A creative entrepreneur could contract with advertisers to promote their products or services at sporting events. Then, the entrepreneur could hire a host of people to walk about a soccer or football stadium during games while wearing the Block Top® hat with the **copyrighted** advertisement attached. In conducting this business, the creative entrepreneur has invented a "Method of doing business at sporting events" that can be the subject of a United States **utility patent**. ---662



This reasoning criteria demonstrates it is possible to obtain intellectual property rights, in all classifications, to seemingly simple ideas, by following the procedures required by the Law of the United States of America.

**Intellectual property rights are not for everyone-----512**

**FIG. 6**

Even in today's worldwide marketplace, there are those rare occasions, when the ambit of exclusionary protection is simply too limited to justify the expense of procuring intellectual property rights. In short, the exclusionary rights are so narrow in scope that any resultant monopoly is useless against competitors. -----514

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